

Regular Session, 2009

HOUSE BILL NO. 587

BY REPRESENTATIVES HARRISON AND BALDONE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FISHING/OYSTERS: Provides relative to the Oyster Seed Ground Vessel Permit

1 AN ACT

2 To amend and reenact R.S. 56:424.1(A) and 433.1(A) and (B), and to enact R.S. 56:433.2,
3 relative to the Oyster Seed Ground Vessel Permit; to repeal the requirements which
4 must be met to qualify for the permit; to provide penalties; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 56:424.1(A) and 433.1(A) and (B) are hereby amended and reenacted
8 and R.S. 56:433.2 is hereby enacted to read as follows:

9 §424.1. Illegal taking of oysters; penalties

10 A. In addition to the penalties contained in R.S. 56:424, 431, ~~or 433~~, or
11 433.1, for any person convicted of a first offense for any violation of the provisions
12 of R.S. 56:424, 431, ~~or 433~~, or 433.1, the court may order the offender, for one year
13 after the date of such conviction, to harvest oysters only from a vessel that employs
14 a vessel monitoring system. For any person convicted of a second offense of the
15 provisions of R.S. 56:424, 431, ~~or 433~~, or 433.1, the court shall require the offender,
16 for three years after the date of such conviction, to harvest oysters only from a vessel
17 that employs a vessel monitoring system. For any person convicted of a third or
18 subsequent offense, the court shall require the offender, for ten years after the date
19 of such conviction, to harvest only from a vessel that employs a vessel monitoring
20 system.

21 * * *

1 §433.1. Oyster seed ground vessel permit; Oyster Seed Ground Vessel Permit
2 Appeals Board

3 A.(1) Any oysters taken for commercial purposes from the public natural
4 reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or
5 Sabine Lake, shall be placed only on a vessel which has an oyster seed ground vessel
6 permit issued exclusively by the department pursuant to rules and regulations
7 promulgated by the commission. Such permit shall be issued in the name of the
8 vessel owner and shall identify the vessel permitted by including the state
9 registration number or the United States Coast Guard documented number. The
10 permit shall identify the vessel that may possess and transport oysters taken from the
11 public natural reefs and oyster seed grounds. The permit does not grant any rights
12 to the oyster resource or any rights to harvest oysters from the waters of the state and
13 shall not be sold, exchanged, or otherwise transferred. The permit is valid for one
14 year, beginning on January first of each calendar year and expiring on December
15 thirty-first of the same calendar year, and permit holders who hold a valid permit
16 during the prior year may renew the permit at any time of the year for the current
17 license year and from November fifteenth for the immediately following license
18 year. The cost of the permit shall be fifteen dollars for residents and sixty dollars for
19 nonresidents.

20 (2) Vessel owners, as listed in the official record of the department at the
21 time of application, who meet the requirements of Subsection B of this Section shall
22 have the right to submit to the department a new application for an oyster seed
23 ground vessel permit. No new applications for such vessel permits shall be accepted
24 after December 31, 2009. A vessel owner shall only be eligible for a permit for each
25 vessel which can be used to meet the qualifcations for a permit under the provisions
26 of Subsection B of this Section.

27 (3) The taking of oysters from the public natural reefs or the oyster seed
28 grounds or reservations without an oyster seed ground vessel permit shall be a class

1 two violation subject to the penalties provided in R.S. 56:32 and to the requirements
2 of R.S. 56:424.1.

3 B. The following vessel owners, as listed in the official records of the
4 department at the time of application for the permit or who can, at the time of
5 application, demonstrate to the department that ownership of that vessel has
6 transferred to them, shall be eligible to receive an oyster seed ground vessel permit:

7 (1) Any person who owned a vessel that was licensed at any time ~~during~~
8 ~~license years 2004, 2005, 2006, or before May 31 in license year 2007~~ between
9 January 1, 2004, and May 1, 2009, and can demonstrate through trip ticket
10 submissions that ~~his~~ that vessel had oyster landings in the state of Louisiana between
11 January 1, 2004, and May ~~31, 2007~~ 1, 2009.

12 (2) Any person who purchased or constructed a vessel and licensed that
13 vessel in the state of Louisiana between January 1, 2004, and ~~April 30, 2008~~, May
14 1, 2009, and who can demonstrate through trip ticket submissions that oysters were
15 landed on that vessel in the state of Louisiana between the time of the vessel's
16 purchase or construction and ~~July 1, 2008~~ May 1, 2009.

17 (3) Any person who can provide evidence that he has a vessel that is under
18 construction in the state of Louisiana that is at least fifty percent complete on ~~July~~
19 ~~1, 2008~~ May 1, 2009.

20 §433.2. Oyster Seed Ground Vessel Permit; conditions of issuance; penalties

21 A. A condition of the grant or issuance of an oyster seed ground vessel
22 permit shall be that the captain on board the vessel is responsible for complying with
23 statutory and regulatory provisions regarding the taking, harvesting, reporting of
24 oysters, and the taking and harvesting of oysters from the public oyster seed grounds.

25 B.(1) Upon a harvester's conviction for violating statutory and regulatory
26 provisions regarding the taking, harvesting, or reporting of oysters, and the taking
27 and harvesting of oysters from the public oyster seed grounds, the harvester shall be
28 prohibited from harvesting oysters from the public seed grounds for a period of six
29 months from the date of conviction.

1 (2) Upon a second conviction for violating statutory and regulatory
2 provisions regarding the taking, harvesting, or reporting of oysters, and the taking
3 and harvesting of oysters from the public oyster seed grounds, the harvester shall be
4 prohibited from harvesting oysters from the public seed grounds for a period of one
5 year from the date of conviction.

6 (3) Upon a third or subsequent conviction for violating statutory and
7 regulatory provisions regarding the taking, harvesting, or reporting of oysters, and
8 the taking and harvesting of oysters from the public oyster seed grounds, the
9 harvester shall be prohibited from harvesting oysters from the public seed grounds
10 for a period of two years from the date of conviction.

11 C. If there are three or more convictions within a single five-year period, the
12 harvester shall be permanently prohibited from harvesting oysters from the public
13 seed grounds.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Harrison

HB No. 587

Abstract: Provides relative eligibility requirements to qualify for the oyster seed ground vessel permit and provides penalties for violations.

Present law provides for the oyster seed ground vessel permit which allows the holder to harvest oysters from the public seed grounds. Provides that in order to qualify to submit an application for such permit, the vessel owner must demonstrate to the Dept. of Wildlife and Fisheries that they (1) owned a vessel during license years 2004, 2005, 2006, or before May 31, 2007, and have trip tickets that demonstrate that vessel had oyster landings between Jan. 1, 2004, and May 31, 2007; or (2) purchased or constructed a vessel and licensed that vessel between Jan. 1, 2004, and April 30, 2008, and have trip tickets that demonstrate that vessel had oyster landings between the date of purchase or construction and July 1, 2008; or (3) can demonstrate that he has a vessel under construction that is at least 50% complete on July 1, 2008.

Proposed law specifies that the harvest is for commercial purposes and makes the qualifying conditions applicable to vessels licensed between Jan. 1, 2004, and May 1, 2009, with landings during that same period; vessels purchased or constructed and licensed between Jan. 1, 2004, and May 1, 2009, with landings between the date of purchase or construction complete and May 1, 2009; or a boat at least 50% complete on May 1, 2009. Specifies that a vessel owner shall only be eligible for a permit for each vessel that could be used to meet the permit qualifications.

Proposed law further provides that a condition of the issuance of an oyster seed ground vessel permit is that the captain of the vessel is responsible for compliance with laws relative to the taking of oysters and taking oysters from the seed grounds. Provides that oyster harvest violations are subject to both the existing statutory penalties and suspension of the seed ground vessel permit for six months for a first conviction, one year for the second conviction, and two years for the third or subsequent conviction. Provides that if there are five or more convictions within a five-year period, the permit shall be permanently suspended, and the vessel owner shall not be eligible to apply for a new permit.

(Amends R.S. 56:424.1(A) and 433.1(A) and (B); Adds R.S. 56:433.2)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill.

1. Limit the permits which may be applied for by a vessel owner to one for each vessel that may be used to meet the qualifications for a permit.
2. Change the ending date for the eligibility criteria to May 1, 2009.

House Floor Amendments to the engrossed bill.

1. Reinstates the appeals board and the sunset date of 2013.
2. Provides that a vessel owner shall only be eligible for a permit for each vessel which can be used to meet the qualifications for a permit.
3. Provides that the captain on board a vessel is responsible for compliance with the law, not the owner and permit holder.
4. Provides that penalties will be levied against the harvester that violated the law, not against the permit holder.
5. Removes the requirement for a vessel on which violations have occurred to use a vessel monitoring system for a period of time after convictions.